

REMARKS

The applicant respectfully requests reconsideration in view of the following remarks. The applicant has combined claims 1 and 2 and deleted formula (1) from claim 2. The applicant has furthermore deleted As, Sb, Bi, Be and Te from the definition of Y and S, Se or Te from the definition of X. In addition, the applicant added the limitation that at least one of the radicals R¹, R², and/or R³ stands for an aromatic or heteroaromatic system from claim 5 into the amended claim 1. In addition, support for this phrase can also be found in paragraph no. [0031] of the published specification (U.S.20070170419). The applicant has amended the specification as requested by the Examiner in order to overcome the objection to the specification. The applicant has amended the dependent claims in order to overcome the 35 U.S.C. 112, second paragraph rejections.

Claims 1-13 and 15-27 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for some of the compounds used as host or electron transporting material, does not reasonably provide enablement for the full scope of the claims. Claims 5, 11, 12, 17, 18, 23, 25, and 26 are rejected under 35 U.S.C. 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1-13, 15-23, and 25-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Kitazawa et al., JP 2002/063989 A (“Kitazawa”). Claims 1-9, 15, 17-21, and 25-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Nii, US 2003/0170494 A1 (“Nii”). Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kitazawa. Claims 1-13, 15-17, 19-23, and 25-28 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 22, 24-25, 28, and 38-43 of copending Application No. 10/563,716 in view of US 5,755,999 (Shi et al.).

Claims 1-13, 15-17, 19-23, and 25-28 are directed to an invention not patentably distinct from claims 22, 24-25, 28, and 38-43 of commonly assigned 10/563,716 in view of Shi (U.S. Patent No. 5,755,999). The applicant respectfully traverses these rejections.

Rejection Under 35 U.S.C. 112, First Paragraph

Claims 1-13 and 15-27 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for some of the compounds used as host or electron transporting material, does not reasonably provide enablement for the full scope of the claims. The applicant has combined claims 1 and 2 and deleted formula (1) from claim 2. The applicant has furthermore deleted As, Sb, Bi, Be and Te from the definition of Y and S, Se or Te from the definition of X. In addition, the applicant added the limitation that at least one of the radicals R¹, R², and/or R³ stands for an aromatic or heteroaromatic system from claim 5 into the amended claim 1. The applicant believes that the claims as amended are in compliance with 35 U.S.C. 112, first paragraph. For the above reasons, this rejection should be withdrawn.

Rejection Under 35 U.S.C. 112, Second Paragraph

Claims 5, 11, 12, 17, 18, 23, 25, and 26 are rejected under 35 U.S.C. 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicant has amended the claims and believes that the claims as amended are in compliance with 35 U.S.C. 112, second paragraph. For the above reasons, this rejection should be withdrawn.

Rejections Over Kitazawa

Claims 1-13, 15-23, and 25-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Kitazawa. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kitazawa. The applicant agrees with the Examiner (see page 6, paragraph no. 7 of the Office Action) that Kitazawa discloses all claim limitations of the pending claims with the exception that Y = P and X = O (see paragraph nos. 17-19 of Kitazawa). However, the applicant has now restricted the formula (3) in amended claim 1 to Y = P and X = NR⁴ and not O. Compounds of this formula are not disclosed by Kitazewa. Furthermore, compounds of formula (2) and (4) are not disclosed by Kitazawa. For the above reasons, this rejection should be withdrawn.

Rejection Over Nii

Claims 1-9, 15, 17-21, and 25-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Nii. The applicant has amended the definition of the substituents R¹ and R² in the structure of formula (4) to an aromatic or heteroaromatic system.

Nii discloses triarylamine derivatives, which are substituted by a vinyl group substituted by an electron attracting group. Nii discloses compounds wherein the electron attracting group is a group of formula S(=O)₂R. However, Nii does not disclose any compounds wherein the S(=O)₂ group is substituted by two aryl groups. Furthermore, Nii does not disclose any compounds of formula (2) or (3). Therefore, amended claim 1 as well as the dependent claims, are therefore novel with respect to Nii. For the above reasons, this rejection should be withdrawn.

Double Patenting Rejections

Claims 1-13, 15-17, 19-23, and 25-28 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 22, 24-25, 28, and 38-43 of copending Application No. 10/563,716 in view of US 5,755,999 (Shi et al). Claims 1-13, 15-17, 19-23, and 25-28 are directed to an invention not patenably distinct from claims 22, 24-25, 28, and 38-43 of commonly assigned 10/563,716 in view of Shi (U.S. Patent No. 5,755,999).

In response, Applicants have filed herewith a Terminal Disclaimer. Accordingly, Applicants respectfully request that the double-patenting rejection be withdrawn.

The filing of a Terminal Disclaimer to obviate a rejection based on nonstatutory double patenting is not an admission of the propriety of the rejection. The "filing of a Terminal Disclaimer simply serves the statutory function of removing the rejection of double patenting, and raises neither a presumption nor estoppel on the merits of the rejection." Quad Environmental Technologies Corp. v. Union Sanitary District, 946 F.2d 870, 20 U.S.P.Q.2d 1392 (Fed. Cir. 1991). Accordingly, Applicants filing of the attached disclaimer is provided for facilitating a timely resolution to prosecution only, and should not be interpreted as an admission as to the merits of the obviated rejection. For the above reasons, these rejections should be withdrawn.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 14113-00043-US from which the undersigned is authorized to draw.

Dated: December 30, 2008

Respectfully submitted,

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Enclosure: Terminal Disclaimer